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July 28, 2011

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**VIA HAND DELIVERY**

Rachel D Campbell  
Director, Office of Proceedings  
Surface Transportation Board  
395 E Street SW  
Washington, DC 20423

Re: Finance Docket No. 34658-1, Alaska Railroad Corporation – Petition for  
Declaratory Order

Dear Director Campbell:

I am writing this letter to update you on the status of the Alaska Railroad Corporation (ARRC)'s Northern Rail Extension (NRE) project and to respectfully withdraw the above-named petition.

ARRC has petitioned the Board for an order declaring that the Interstate Commerce Commission Termination Act preempts the U.S. Environmental Protection Agency's efforts to impede issuance of a permit under Section 404 of the Clean Water Act. When the petition was filed in January 2011, EPA had sent a letter to the U.S. Army Corps of Engineers Alaska District asserting that the NRE project—which has been fully approved by the Board—"should not be authorized." This letter was part of the Clean Water Act Section 404(q) "elevation process," and it signaled EPA's attempt to prevent the issuance of the Section 404 permit that ARRC had requested.

In a letter dated June 10, 2011, the Alaska District transmitted a signed Section 404 permit to ARRC. Pursuant to the Corps-EPA memorandum that details the Section 404(q) elevation procedures, the Administrator of EPA Region 10 was required to request additional Department of the Army review within 15 days after receiving notice of the Corps' intent to issue the permit. Given the date of the letter transmitting the signed permit to ARRC, that 15 days has now expired without any request for additional review from EPA. Furthermore, EPA's Region 10 Administrator Dennis McLerran has communicated to ARRC that the agency will not seek higher level review of the Corps permit.

Under the present circumstances there is no longer any pressing need for a declaration regarding the legality of EPA's communications with the Corps regarding the Section 404 permit requested by ARRC. ARRC is accordingly withdrawing its petition.

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Thank you for your time and consideration of this matter. If you have any questions, please do not hesitate to contact me.

Sincerely,

  
Kathryn Kusske Floyd

cc: Parties of Record